



NEWS

Judicial Council of California
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SUMMARY OF CASES ACCEPTED DURING THE WEEK OF OCTOBER 29, 2001

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#01-147 Cadence Design Systems, Inc. v. Avant! Corporation, S098266. (9th Cir. Nos. 99-17648, 99-17649; 253 F.3d 1147.) Request by the United States Court of Appeals for the Ninth Circuit for the answer to a certified question of state law pursuant to rule 29.5 of the California Rules of Court. The certified question is: "Under the California Uniform Trade Secrets Act ('USTA'), Cal. Civ. Code § 3426, when does a claim for trade secret infringement arise: only once, when the initial misappropriation occurs, or with each subsequent misuse of the trade secret?"

#01-148 Cruz v. PacifiCare Health Systems, Inc., S101003. (A093002; 91 Cal.App.4th 1179.) Petition for review after the Court of Appeal affirmed an order denying a motion to compel arbitration. This case includes the issue of whether class action claims under the Unfair Competition Law (Bus. & Prof. Code, § 17200 et seq.) and the Consumers Legal Remedies Act (Civ. Code, § 1750) for disgorgement and restitution are subject to arbitration.

#01-149 People v. Linn, S100485. (B142261; 90 Cal.App.4th 1354.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. The court ordered briefing deferred pending decision in People v. Engelman, S086462

(over)

(#00-49), which presents issues concerning the effect of CALJIC No. 17.41.1 on a defendant's right to trial by jury, and People v. Sparks, S098290 (#01-97), which concerns whether burglary can be committed by entry with felonious intent into a room within a single-family residence, if the felonious intent was formed after entry into the residence, and whether the trial court properly so instructed.

STATUS

#01-127 Wittkopf v. County of Los Angeles, S100231. The court ordered briefing deferred pending decision in Colmenares v. Braemar Country Club, Inc., S098895 (#01-103), which presents issues concerning (1) whether the Fair Employment and Housing Act (Gov. Code, § 12940 et seq.), prior to the enactment of Government Code section 12926.1 and the amendment of Government Code section 12926, subdivision (k) by the Prudence Kay Poppink Act (stats. 2000, ch. 1049), required that a plaintiff who alleges that he or she was discriminated against on the basis of disability prove that his or her disability substantially limited a major life activity; and (2) whether the 2000 legislation, which explicitly provides that a substantial limitation is not required, should be applied retroactively if it represents a change in the law rather than a clarification of the preexisting law.

#01-143 People v. Posey, S100360. The court ordered briefing expanded to include the issues (1) whether, in the absence of legislative action, the court can and should reconsider past California decision holding that the issue of venue presents a question of fact to be determined by the jury rather than a question of law to be determined by the court (see People v. Simon (2001) 25 Cal.4th 1082, 1110, fn. 18), and (2) whether, if the court were to reconsider the rule, any change should be retroactive or prospective.

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